

Memorandum

~~SECRET~~

To : Mr. E. J. O'Malley

Date 11/17/83

From : J. L. Tierney

Subject : SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

PURPOSE:

To recommend approval of proposed disclosure of FBI documents to SSCI and House Permanent Select Committee on Intelligence (HPSCI) by the Office of Intelligence Policy and Review (OIPR) no later than 11/18/83. (U)

RECOMMENDATION:

That the FBI concur with furnishing the enclosed collection of FBI records and the accompanying Department of Justice (DOJ) summary to both HPSIC and SSCI. (U)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE: .25X(1)
DATE 06-08-2009
FBI INFORMATION ONLY

DETAILS:

Following a joint appearance by Judge Webster and Mary Lawton before the SSCI, Senator Leahy wrote to the Attorney General inquiring about the legal basis for the President's authority on warrantless searches. He also asked for a review of the history of the use of this technique. (U)

William Brown, an attorney on Ms. Lawton's staff, has been in contact with me through Mr. Sturgis' office on the topic of the history of that technique. I have given him access to the materials used during the Grey-Felt-Miller discovery proceedings, specifically the collection which shows notice to DOJ and The White House of current or past use of the technique. The collection includes entries proposed or executed on behalf of the National Security Agency (NSA). (U)

Enclosures: 3

1-Mr. J. A. Mintz
1-Mr. C. P. Monroe
1-Mr. R. S. Young
1-Mr. E. J. O'Malley

1-Mr. W. D. Gore
1-Mr. J. M. Sturgis
1-Mr. C. W. Dixon
① 62-118045

NOT RECORDED

JLT:mbk

(9)

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Classified by: 05
Declassify on: OADR

136 MAR 22 1984

TOP SECRET MATERIAL ATTACHED

CONTINUED OVER

Greenberg/Gray-5748

FBI/DOJ

~~SECRET~~

Memorandum to Mr. E. J. O'Malley from J. L. Tierney
Re: SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI)

Ms. Lawton's office proposes to answer the Senator's inquiry in writing. Attached is a copy of Part 2 of her draft response which covers the history of the FBI's use of warrantless searches before 1966. The opening portion of Ms. Lawton's letter is a recitation of the law on the topic and is not relevant to the purpose of this memo. The second part of the memorandum contains a summary of the FBI documents. Part 2 of the memorandum, and a redacted set of FBI documents are attached, as is a second set of the documents without redactions. The redacted versions of the documents will be furnished to the committees, but will be returned to OIPR within 30 days. Only one copy of the OIPR memorandum will be furnished to each committee and this copy will be maintained by the Chief Counsel of each committee. (U)

(S) Mr. Brown has obtained the concurrence of NSA General Counsel and will check with State. Mr. Brown, [redacted] on his own initiative, has made further redactions to protect FBI interests as well. I am very familiar with these documents and I agree that redaction sufficiently protect our interests. ~~(S)~~ b1

Ms. Lawton anticipates furnishing the requested memorandum of law with a summary of enclosures and the redacted enclosures by 11/18/83. (U)

The enclosures are attached to the original and additional file copy (62-118045) only. (U)

*Enclosures located in Special File Room
under File #62-117131 memo dated 11/17/83,
captioned "Senate Select Committee on Intelligence
(SSCI)."*

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Greenberg/Gray-5749

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UDITH CLARK, et al.,

Plaintiffs,

- against -

UNITED STATES OF AMERICA, et al.,

Defendants.
-----x

U.S. DISTRICT COURT
FILED
MAY 17 1979
S. D. OF N. Y.
ATTENDED
PROTECTIVE ORDER

78 Civ. 2244 (MEL)

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

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(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ^{for each party} plaintiffs' attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.

7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendants ^{msz} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~The attorneys for the other parties~~ ^{plaintiffs and plaintiffs' attorneys} for examination and ~~plaintiffs~~ ^{plaintiffs}, by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~APRIL 18~~ , 1979

May 16

Monroe L. Coble
United States District Judge

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum ~~SECRET~~

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Mr. D. W. Moore, Jr.

1 - Mr. J.B. Adams

DATE 12/21/78

FROM : S. S. Mignosa *SSM*

1 - Mr. H.N. Bassett
(Attn: P.V. Daly)

1 - Mr. J.A. Mintz

1 - Mr. D.W. Moore, Jr.

1 -

SUBJECT: U. S. vs. GRAY, et al.
L. Patterson

This memorandum is unclassified except where otherwise noted.

PURPOSE:

To provide excised versions of certain documents deemed essential by the Department in captioned matter.

RECOMMENDATION:

That the Department be provided with excised versions of attached documents deemed suitable for release to the defense, as well as excised versions deemed suitable for use at trial.

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 06-08-2009

APPROVED:

WBO
Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
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DETAILS:

Francis Martin, trial attorney for the Department of Justice in captioned matter, has requested the Bureau review certain documents deemed by the Department as essential to the trial in captioned matter. This review is for the purpose of determining what defense counsel may have access to and in addition, what may ultimately be used in trial.

Enclosures **(ENCLOSURE)**

REC-504 ST. 109

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5 JAN 24 1979

Classified and Extended by *6693*

Reason for Extension FCIM, II, 1-2.4.2 (2)

Date of Review for Declassification December 21, 1998

tyd
AJD:ksw
(7)



Greenberg/Gray 5753

6 FEB 5 1979

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

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Memorandum to Mr. D. W. Moore, Jr.
Re: U. S. vs. Gray, et al.

DETAILS CONTINUED:

The Department has previously been furnished excised versions of the attached documents, however, the Department has indicated it wants additional information released.

Since some of the material originated from CIA and NSA, those agencies are separately processing that particular information.

To date, we have been permitted to make the necessary excisions to protect sources and methods, as well as material which would compromise ongoing investigations.

Concerning the attached documents, the Department requests we release as much as possible to the defense and ultimately at trial.

Attached are three Xerox copies each of the following documents:

I. Mr. E. S. Miller memorandum to Mr. W. M. Felt, 9/7/72, captioned "Al-Fatah; Internal Security - Middle East."

Copy 1 is the original version of this memorandum.

Copy 2 is the excised version of this memorandum deemed releasable to the defense.

Excisions in this version on pages 1 and 2 concerning contact between Fatah and [redacted] of the [redacted] are deemed necessary to protect a source, [redacted] (PROB) [redacted]

(S)

b1
b2
b7D

(S)

Copy 3 deemed usable in trial.

The excisions made in this copy are essential to protect sources and methods.

II. Teletype from Acting Director to SACs Alexandria, et al., 9/7/72, captioned "Al-Fatah, Internal Security - Middle East."

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~~SECRET~~

Memorandum to Mr. D. W. Moore, Jr.
Re: U. S. vs. Gray, et al.

DETAILS CONTINUED:

Copy 1 is original version of this teletype.

Copy 2 is the excised version deemed releasable to the defense.

Excisions in this copy essential to protect the possible identity of a sensitive live CIA informant.

Copy 3 is the excised version deemed usable at trial.

The excisions in this copy are essential to protect sources and methods.

III. E. S. Miller memorandum to Mr. W. M. Felt, 9/21/72, captioned "Al-Fatah, Internal Security - Middle East."

Copy 1 is the original version of this memorandum.

Copy 2 is the version deemed releasable to the defense (it is noted that there are no excisions in this copy).

Copy 3 deemed usable at trial.

The excisions in this copy are essential to protect sources and methods.

This matter coordinated with SA Paul V. Daly.

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Greenberg/Gray-5755

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HEREIN IS UNCLASSIFIED
DATE 06-08-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-5756

62-118045-127

ENCLOSURE